

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DARWYNN L. BARWICK,

Plaintiff, : Case No. 3:05-cv-214  
-vs- : District Judge Thomas M. Rose  
Defendant. : Chief Magistrate Judge Michael R. Merz

KIMBERLY HARSHBARGER,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #4), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on July 8, 2005, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that this case be dismissed without prejudice for lack of subject matter jurisdiction.

July 19, 2005.

**s/ Thomas M. Rose**

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Thomas M. Rose  
United States District Judge